

## APPENDIX A

### Alcohol/Drug Related Laws and Penalties under the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Campuses Act of 1989

#### I. Federal Drug Related Laws:

Under federal law, penalties vary based on the type of controlled substance and in some instances, based on the amount involved.

Types of Controlled Substances (Source: *Drug Scheduling*, United States Drug Enforcement Administration, <https://www.dea.gov/drug-information/drug-scheduling>):

- Schedule I (“no currently accepted medical use and a high potential for abuse”) - Examples: “heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methadone, and peyote”
- Schedule II (“a high potential for abuse, with use potentially leading to severe psychological or physical dependence”) – Examples: “combination products with less than 15 milligrams of hydrocodone per dosage unit (Vicodin), cocaine, methamphetamine, methadone, hydromorphone (Dilaudid), meperidine (Demerol), oxycodone (OxyContin), fentanyl, Dexedrine, Adderall, and Ritalin”
- Schedule III (“a moderate to low potential for physical and psychological dependence”) - Examples: “products containing less than 90 milligrams of codeine per dosage unit (Tylenol with codeine), ketamine, anabolic steroids, and testosterone”
- Schedule IV (“low potential for abuse and low risk of dependence”) - Examples: “Xanax, Soma, Darvon, Darvocet, Valium, Ativan, Talwin, Ambien, and Tramadol”
- Schedule V (“lower potential for abuse”) – Examples: “cough preparations with less than 200 milligrams of codeine or per 100 milliliters (Robitussin AC), Lomotil, Motofen, Lyrica, and Parepectolin”

For a complete listing of controlled substances under federal law, visit the following:

- <https://deادiversion.usdoj.gov/schedules/index.html>
- <https://www.dea.gov/drug-information/csa>
- <https://www.dea.gov/drug-information/drug-scheduling>

For additional information on federal drug related laws and higher education. Visit <https://www.campusdrugprevention.gov>.



**A. Penalties (21 United States Code, §801 through §971):**

Federal Drug Possession Penalties:

- First offense: Minimum \$1,000 fine and up to 1 year imprisonment (21 U.S.C. §844).
- Second offense: Minimum 15 days imprisonment up to 2 years imprisonment plus a minimum fine of \$2,500 (21 U.S.C. §844).
- Subsequent offenses: Minimum 90 days imprisonment up to 3 years plus minimum fine of \$5,000 (21 U.S.C. §844).
- Additional penalties exist for specific controlled substances (21 U.S.C. §844).
- Additional civil penalties up to \$10,000 and costs may be pursued. (21 U.S.C. §844a).
- Additional penalties exist for possession and sale of drug paraphernalia, including up to 3 years imprisonment and fines ((21 U.S.C. §863).
- Seizure of real estate and personal property such as cars upon arrest (21 U.S.C. §853).
- Denial of federal benefits, such as school loans and grants up to 1 year for the first offense or up to 5 years for subsequent convictions.

Federal Drug Trafficking Penalties (manufacture, distribute, dispense, or possess with intent to engage in such conduct) (Source: Drugs of Abuse, A DEA Resource Guide / 2022 Edition, Drug Enforcement Administration, U.S. Department of Justice, <https://www.dea.gov/documents/2022/2022-12/2022-12-02/drugs-abuse-2022>):

<b>Drugs/Schedule</b>	<b>Quantity</b>	<b>Penalties</b>
Cocaine (Schedule II)	500-4999 grams mixture	<b>First Offense:</b> Not less than 5 years, and not more than 40 years. If death or serious injury, not less than 20 year or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an in individual.  <b>Second Offense:</b> Not less than 10 years, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.
Cocaine Base (Schedule II)	28-279 grams mixture	
Fentanyl (Schedule II)	40-399 grams mixture	
Fentanyl Analogue (Schedule I)	10-99 grams mixture	
Heroin (Schedule I)	100-999 grams mixture	
LSD (Schedule I)	1-9 grams mixture	
Methamphetamine (Schedule II)	5-49 grams pure or 50-499 grams mixture	
PCP (Schedule II)	10-99 grams pure or 100-999 grams mixture	
Cocaine (Schedule II)	5 kgs or more mixture	<b>First Offense:</b> Not less than 10 years, and not more than life. If death or serious injury, not less than 20 or more than life.
Cocaine Base (Schedule II)	280 grams or more mixture	

Fentanyl (Schedule II)	400 grams or more mixture	<p>Fine of not more than \$10 million if an individual, \$50 million if not an individual.</p> <p><b>Second Offense:</b> Not less than 15 years, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.</p> <p><b>2 or More Prior Offenses:</b> Not less than 25 years. Fine of not more than \$20 million if an individual, \$75 million if not an individual.</p>
Fentanyl Analogue (Schedule I)	100 grams or more mixture	
Heroin (Schedule I)	1 kg or more mixture	
LSD (Schedule I)	10 grams or more mixture	
Methamphetamine (Schedule II)	50 grams or more pure or 500 grams or more mixture	
PCP (Schedule II)	100 gm or more pure or 1 kg or more mixture	
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	<p><b>First Offense:</b> Not more than 20 years. If death or serious injury, not less than 20 years, or more than life. Fine \$1 million if any individual, \$5 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 30 years. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.</p>
Flunitrazepam (Schedule IV)	1 gram	<p><b>First Offense:</b> Not more than 10 years. If death or serious injury, not more than 15 years. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 20 years. If death or serious injury, not more than 30 years. Fine not more than \$1 million if an individual, \$5 million if not an individual.</p>
Other Schedule III drugs	Any amount	<p><b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 10 years. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.</p>
All other Schedule IV drugs	Any amount	<p><b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.</p> <p><b>Second Offense:</b> Not more than 10 years. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.</p>
Flunitrazepam (Schedule IV)	Other than 1 gram or more	

All Schedule V drugs	Any amount	<p><b>First Offense:</b> Not more than 1 year. Fine not more than \$100,000 if an individual, \$250,000 if not an individual.</p> <p><b>Second Offense:</b> Not more than 4 years. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.</p>
Marijuana (Schedule I)	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	<p><b>First Offense:</b> Not less than 10 years or more than life. If death or serious bodily injury, not less than 20 years, or more than life. Fine not more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.</p> <p><b>Second Offense:</b> Not less than 15 years or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.</p>
	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	<p><b>First Offense:</b> Not less than 5 years or more than 40 years. If death or serious bodily injury, not less than 20 years, or more than life. Fine not more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.</p> <p><b>Second Offense:</b> Not less than 10 years or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual.</p>
	<p>More than 10 kgs hashish; 50 to 99 kg marijuana mixture</p> <p>More than 1 kg or hashish oil; 50 to 99 marijuana plants</p>	<p><b>First Offense:</b> Not less than 20 years. If death or serious bodily injury, not less than 20 years, or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.</p> <p><b>Second Offense:</b> Not less than 30 years. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.</p>

	Less than 50 kg marijuana (except 50 or more marijuana plants regardless of weight);  1 to 49 marijuana plants	<b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000, \$1 million if other than an individual.  <b>Second Offense:</b> Not more than 10 years. Fine \$500,000 if an individual, \$2 million if other than individual.
Hashish (Schedule I)	10 kg or less	<b>First Offense:</b> Not more than 5 years. Fine not more than \$250,000, \$1 million if other than an individual  <b>Second Offense:</b> Not more than 10 years. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish Oil (Schedule I)	1 kg or less	

“\*The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final not less than 25 years imprisonment and a fine up to \$20 million if an individual and \$75 million if other than an individual.”

In addition, the denial of federal benefits, including school loans and grants for up to 5 years for a first offense, up to 10 years for a second offense, and permanently for a third offense, may be imposed.

**B. State and Local Drug Related Laws:**

New Jersey also maintains various laws regarding controlled substances and enacted the Dangerous Substances Control Act (N.J.S.A. §24:21-1 through §21-8) in which drugs are categorized into the following schedules:

- Schedule I ((1) high potential for abuse; and (2) no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision) – Examples: heroin, peyote
- Schedule II ((1) high potential for abuse; (2) currently accepted medical use (or with severe restrictions) in treatment in the United States; and (3) abuse may lead to severe psychic or physical dependence) – Examples: opium, opiates, cocaine
- Schedule III ((1) potential for abuse less than Schedules I and II; (2) currently accepted medical use in treatment in the United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence)
- Schedule IV ((1) low potential for abuse that is less than Schedule III; (2) currently accepted medical use in treatment in the United States; and (3) may lead to limited physical dependence or psychological dependence less than Schedule III)

- Schedule V ((1) low potential for abuse less than Schedule IV; (2) currently accepted medical use in treatment in the United States; and (3) limited physical dependence or psychological dependence liability less than Schedule IV)

Certain State (Chapters 35 and 36 of the New Jersey Code of Criminal Justice, Title 2C) and Local<sup>†</sup> Unlawful Possession Penalties

- Simple Possession of Controlled Substance – (N.J.S.A. §2C:35-10)
  - Schedule I, II, III, or IV – Third Degree Crime up to \$35,000 fine
  - Schedule V – Fourth Degree Crime up to \$15,000 fine
  - Marijuana - more than 6 ounces or Hashish - more than 17 grams – Fourth Degree Crime plus \$25,000
  - Psilocybin – 1 ounce or less – Disorderly Persons Offense
  - Synthetic Cannabinoid – at least 1 ounce – Third Degree Crime; less than 1 ounce Fourth Degree Crime ((N.J.S.A. §2C:35-5.3c)
  - Gamma Hydroxybutyrate without prescription – Third Degree Crime plus up to \$100,000 fine (N.J.S.A. §2C:35-10.2)
  - Flunitrazepam without a prescription – Third Degree Crime plus up to \$100,000 fine N.J.S.A. §2C:35-10.3)
  - Bath Salts – one ounce or more – Third Degree Crime; less than an ounce – Fourth Degree Crime N.J.S.A. §2C:35-10.3a)
  - On Public School Property (1,000 feet) – imprisonment or community service
- Possession of Cannabis on Public School Property
  - Disorderly Persons Offense – punishable by up to six months imprisonment or a fine of up to \$1,000.00 or both (N.J.S.A. §2C:33-16)
  - Community Service
- Possession of Controlled Substances in Drug-Free School Zone or Drug-Free Public Facility Zone –
  - Within 1,000 feet of school, Third Degree Crime with mandatory imprisonment term with varied ineligibility for parole (N.J.S.A. §2C:35-7)
  - Within 500 feet public property, Second Degree Crime except less than one ounce marijuana is Third Degree Crime (N.J.S.A. §2C:35-7.1)
  - South Orange City Code, § 84-12
  - Newark, § 20:27
  - Nutley § 296
  - Freehold Code of Ordinances, Chapter 9.16
- Possession of Cannabis, Marijuana, Hashish by Underaged Persons in Public Place, School of Motor Vehicle – written warnings for first two offenses; write ups for third and subsequent offenses (N.J.S.A. §2C:33-15)
- By Underaged Persons in Public Place, School, or Motor Vehicle



- New Jersey - written warnings for first two offenses; write ups for third and subsequent offenses (N.J.S.A. §2C:33-15)
- By Underaged Persons in Private Place
  - Newark – on private property or in an unlawful amount - \$250 fine for first offense; \$350 for subsequent offenses (Code of the City of Newark §14:6-5.1 through 5.3)
  - Newark – lawful amount - \$100 fine for first offense; \$200 for second offense, \$350 for subsequent offenses (Code of the City of Newark §14:6-5.2)

### State and Local<sup>+</sup> Unlawful Distribution Penalties

- New Jersey State Law: Manufacture, distribute, dispense, or possess with the intent or have under control with the intent to engage in such conduct, any controlled substance or counterfeit of same (N.J.S.A. §2C:35-5):
  - Heroin – 5 ounces or more – First Degree Crime – mandatory minimum imprisonment with portion ineligible for parole; fine up to \$500,000
    - .5 ounce to under 5 ounces – Second Degree Crime
    - Less than .5 ounce – Third Degree Crime plus fine up to \$75,000
  - Other Schedule I or II – at least 1 ounce – Second Degree Crime
    - Less than 1 ounce – Third Degree Crime plus fine up to \$75,000
  - Lysergic acid diethylamide (LSD/Acid) – at least 100 mg or analog 10 g – First Degree Crime - mandatory minimum imprisonment with portion ineligible for parole; fine up to \$500,000
    - Less than – Second Degree Crime
  - Methamphetamine – at least 5 ounces – First Degree Crime plus \$300,000 fine
    - .5 ounce to under 5 ounces – Second Degree Crime
    - Less than .5 ounce – Third Degree Crime plus fine up to \$75,000
  - Marijuana – 25 pounds or 50 plants or at least 5 pounds hashish – First Degree Crime plus up to \$300,000 fine
    - 5 pounds to under 25 pounds or 10 to 49 plants or 1 pound to under 5 pounds hashish – Second Degree Crime
    - More than 1 ounce to under 5 pounds or more than 5 grams to under 1 pound hashish – Third Degree Crime plus up to \$25,000 fine
    - 1 ounce or less or 5 grams or less hashish – Written Warning; Second Offense: Fourth Degree Crime
  - Any other Schedule I, II, III, or IV Controlled Substance – Third Degree Crime plus up to \$25,000 fine
  - Schedule V Controlled Substance – Fourth Degree Crime plus up to \$25,000 fine
  - Gamma Hydroxybutyrate – Second Degree Crime plus up to \$150,000 fine (N.J.S.A. §2C:35-5.2)
  - Flunitrazepam – at least 1 gram – First Degree Crime plus up to \$250,000 fine (N.J.S.A. §2C:35-5.3)

- Less than 1 gram – Second Degree Crime plus up to \$150,000 fine
  - Bath salts – at least 1 ounce – Second Degree Crime; less than 1 ounce – Third Degree Crime (N.J.S.A. §2C:35-5.3a)
  - Synthetic Cannabinoid (even if not listed in the Schedule) – at least 1 ounce – Second Degree Crime; less than 1 ounce – Third Degree Crime (N.J.S.A. §2C:35-5.3b)
- Distribution in Certain Locations / School Zones
  - Within 1,000 feet of school, Third Degree Crime with mandatory imprisonment term with varied ineligibility for parole (N.J.S.A. §2C:35-7)
  - Within 500 feet public property, Second Degree Crime except less than one ounce marijuana is Third Degree Crime (N.J.S.A. §2C:35-7.1)
- Distribution to Minors or Pregnant Female – Subject to twice the penalties
- Providing Cannabis Item to Underaged Persons – Petty Disorderly Persons Offense - \$500 fine (N.J.S.A. §2C:33-13.1)
- Results in Death – strict liability – First Degree Crime (N.J.S.A. §2C:35-9)

State and Local<sup>+</sup> Unlawful Possession/Consumption for Alcohol

- Possession on Public School Property
  - Disorderly Persons Offense - punishable by up to six months imprisonment or a fine of up to \$1,000.00 or both (N.J.S.A. §2C:33-16)
- By Underaged Persons in Public Place, School, or Motor Vehicle or on Private Property
  - New Jersey - written warnings for first two offenses; write ups for third and subsequent offenses (N.J.S.A. §2C:33-15)
  - Newark, Nutley - \$250 fine for first offense; \$350 for subsequent offenses; authority to impact driving privileges for six months (Code of the City of Newark § 4:5-6; Code of the Township of Nutley § 210-27)
- Open Container Law/Public Consumption/Motor Vehicle
  - New Jersey – N.J.S.A. §39:4-51b
  - South Orange – imprisonment in the county jail or in any place provided by the Township of South Orange Village for the detention of prisoners for any term not exceeding 90 days or by a fine not exceeding \$2,000 or by a period of community service not exceeding 90 days (South Orange City Code, Chapter 225)
  - Newark – a fine of at least \$25, but not to exceed \$500 or a period of community service not exceeding 90 days or both a fine and community service (Code of the City of Newark § 20:2-7, -26).
  - Nutley – a fine not exceeding \$500 or imprisonment in county jail not to exceed 90 days or both (Code of the Township of Nutley § 210-21)
  - Clifton – a fine between \$100 and \$1,250, imprisonment in county or municipal jail not to exceed 90 days, or community service not exceeding 90 days, or any combination thereof (Code of the City of Clifton § 137-24, -29)





- Freehold – a minimum fine of \$50 up to \$500 and four hours of public service for first offense (Freehold Code of Ordinances, 9.04.030)

#### State and Local<sup>+</sup> Unlawful Distribution for Alcohol

- Distribution Prohibited without a License – imprisonment in the county jail or in any place provided by the Township of South Orange Village for the detention of prisoners for any term not exceeding 90 days or by a fine not exceeding \$2,000 or by a period of community service not exceeding 90 days (South Orange City Code, Chapter 56, § 1-17)
- Service to Underaged Persons
  - New Jersey - Disorderly Persons Offense - punishable by up to six months imprisonment or a fine of up to \$1,000.00 or both (N.J.S.A. §2C:33-17)
  - Newark – Disorderly Persons Offense – punishable up to \$500 fine and six months of driving privileges affected or license eligibility affected (Code of the City of Newark § 4:5-1, -5)
  - South Orange – imprisonment in the county jail or in any place provided by the Township of South Orange Village for the detention of prisoners for any term not exceeding 90 days or by a fine not exceeding \$2,000 or by a period of community service not exceeding 90 days (South Orange City Code, § 56-12, § 1-17).

<sup>+</sup>Local laws include, to the extent they exist as noted, municipalities in which the University maintains a campus or school, including, South Orange, Newark, Nutley, Clifton, and Freehold. These lists are by no means exhaustive.

Certain offenses are subject to greater penalties as well.